

SABATINI LAW FIRM, LLC

CARLO SABATINI
KRISTIN SABATINI

216 N. Blakely St.
Dunmore, PA 18512
Phone: (570) 341-9000
Fax: (570) 504-2769
Satellite Office: Wilkes-Barre 823-9000

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Honorable Mark J. Conway
Max Rosenn U.S. Courthouse
197 South Main Street
Wilkes-Barre, PA 18701

(VIA CM/ECF ONLY)

**Re: Qaadira Chanel Roberson
Middle District of PA Bankruptcy No. 5:22-bk-02242-MJC**

Dear Judge Conway,

I am writing to apologize for missing this morning's hearing. I take full responsibility for this mistake.

The error here occurred because once no objection was filed, it was incorrectly assumed that no hearing would be held. The semi-passive notice that the Court's filing instructions require a filer to use with a fee application states this:

If you do not file an objection/response within the time permitted the Court will deem the motion unopposed and proceed to consider the motion without further notice or hearing, and may grant the relief requested.

http://www.pamb.uscourts.gov/sites/default/files/Misc/Sample_Note.pdf

The language of this notice makes it appear that no hearing would be held as no objection was filed.

Of course, I recognize that this notice is intended to inform the *recipients* of the notice, rather than the filer's counsel. And, the Court's filing instructions clearly state that where a semi-passive notice is used, then I should be prepared to attend a scheduled hearing, even in the absence of an objection. Specifically, "If a default order **has not** been

signed and entered on the docket, the parties or their counsel are required to appear in court." <http://www.pamb.uscourts.gov/noticing-information> (emphasis in original).

This is the first case that I remember having where I served a semi-passive notice and a default order was not entered. If I have had a similar case previously, I don't remember. Because this situation was a new – or at a minimum, an extremely infrequent – occurrence for me, I wasn't aware of the instruction that I must appear at the hearing even if no objection was filed. This is the first case where I have filed a fee application since the filing requirements for fee applications were changed to require a *semi-passive* notice rather than a *passive* notice.

I learned of the mistake just before I started writing this letter, when I saw the Notice of Electronic Filing indicating that a hearing had been held. The Notice of Electronic Filing indicates the following disposition: "Hearing held. Matter is taken under advisement and the Court will issue an appropriate order. Record made." Again, I apologize sincerely for this mistake. I understand that you surely spent substantial time preparing for today, and that the record is now closed.

May I ask that you nevertheless consider rescheduling the hearing to allow me to address any questions that you intended to ask me at the hearing? As you may have surmised from your review of the application, I viewed this case as a test case to help me understand whether you consider the billing practices that I am now following to be acceptable in light of your opinion in *In re Badyrka*. A more informed analysis of this application would hopefully make it more likely that you find my next fee application to be acceptable.

If you are inclined to grant that request, and if you wished to have the hearing while your preparation is still fresh, I could make myself available anytime tomorrow or next week. Or, if you'd agree to grant the request, but only on a date that is already reserved on your calendar for court hearings, then I note that the confirmation hearing for this matter is presently scheduled for one week from today.

Again, I apologize for this mistake and I have no one to blame but myself. I believe that in the 23 years that I have been a lawyer, this is the first time that I've failed to appear at a hearing. The one saving grace here is that any negative consequence from the error will harm only me (rather than my client) as it is only I who stood to benefit from having a hearing on this fee application.

Sincerely yours,

Carlo Sabatini
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